



Office of the Fairness Commissioner

2021-2024 Business Plan



FAIRNESS COMMISSIONER

COMMISSAIRE À L'ÉQUITÉ

**OFFICE OF THE FAIRNESS COMMISSIONER
BUREAU DU COMMISSAIRE À L'ÉQUITÉ**

An agency of the Government of Ontario
Un organisme du gouvernement de l'Ontario

Mandate of the Office:

The Office of the Fairness Commissioner (OFC) is an agency of the Government of Ontario. It provides a vital regulatory oversight role and serves as an advocate for individuals who seek to be registered in a profession or compulsory trade in Ontario. The OFC is led by the Fairness Commissioner, whose overall mandate is set out in section 13(3) of the *Fair Access to Regulated Professions and Compulsory Trades Act, 2006* (FARPACTA). This section provides as follows:

It is the function of the Fairness Commissioner to:

- (a) assess the registration practices of regulated professions based on their obligations under this Act and the regulations;
- (b) specify audit standards, the scope of audits, times when registration practices shall be reviewed, times when fair registration practices reports and auditors' reports shall be filed, the form of all reports and certificates required under this Act and the regulations and the information that they must contain;
- (c) consult with regulated professions on the cost, scope and timing of audits;
- (d) monitor third parties relied on by regulated professions to assess the qualifications of individuals applying for registration by a regulated profession to help ensure that their assessments are based on the obligations of regulated professions under this Act and the regulations;
- (e) provide information and advice to regulated professions and to professions that may be named as regulated professions to assist them in understanding how to comply with the requirements of this Act and the regulations;
- (f) advise regulated professions, government agencies, community agencies, colleges and universities, third parties relied on by regulated professions to assess qualifications and others as the Minister may direct with respect to matters under this Act and the regulations;
- (g) advise ministries with respect to matters under this Act and the regulations that affect a ministry or a regulated profession that falls under the jurisdiction of the ministry;
- (h) establish eligibility requirements that a person must meet to be qualified to conduct audits;

- (i) establish a roster of persons who in the opinion of the Fairness Commissioner have satisfied the eligibility requirements established under clause (h);
- (j) advise the Minister on matters related to the administration of this Act;
- (k) report to the Minister on registration practices related to internationally trained individuals and their registration by regulated professions and to other ministers in respect of those same issues as they relate to regulated professions that fall under the jurisdiction of their respective ministries; and
- (l) perform such other functions as may be assigned by the Lieutenant Governor in Council. 2006, c. 31, s. 13 (3)

This legislation applies to the 13 non-health professions and to the Ontario College of Trades. Schedule 2 of the *Regulated Health Professions Act, 1991* (RHPA) confers a similar mandate on the Fairness Commission with respect to the 26 health professions or colleges.

Sections 7 through 12 of FARPACTA outline a number of specific duties to which all regulators must adhere as part of the process to register applicants. These relate to such matters as the provision of information to applicants, the timeliness of registration decisions, the availability of an internal review or appeal process, the right of applicants to make submissions during these processes, and access to relevant records for this purpose.

These responsibilities are subsets of the overarching general duty articulated in section 6 of FARPACTA, which indicates that: “A regulated profession has a duty to provide registration practices that are transparent, objective, impartial and fair”.

The four principles of transparency, objectivity, impartiality and fairness guide and inspire the mandate of the Fairness Commissioner.

In fulfilling this mandate, the OFC seeks to identify artificial or systemic barriers, and associated red tape, that can impede the ability of qualified applicants to work in their chosen profession or compulsory trade. These barriers are especially problematic for internationally trained applicants whose skills may be discounted unless regulators incorporate fair-minded and enlightened practices into their registration schemes.

In addition, as part of the Ontario Ministry of Labour, Training and Skills Development (MLTSD), the OFC has the opportunity to work collaboratively with its ministry partners to help ensure that Ontario's labour market goals for the employment of skilled professionals and tradespersons are met.

The OFC now oversees the licensing practices of 40 regulatory bodies, compared to 35 in 2007. These groups cover virtually every sector of the province's economy.

The available statistics indicate that Ontario's workforce is aging. The province requires trained workers to replenish employees who have retired or are about to do so. Newcomers represent an important source of new entrants into the labour market. Net migration is projected to account for 73 per cent of all population growth in the province from 2016 to 2041, with in-province increases accounting for the remaining 27 per cent.

Promoting fair and timely access to the professions and compulsory trades -- with a focus on reducing barriers for internationally trained applicants and simplifying the recognition of foreign credentials to promote labour mobility and efficient licensing -- constitute important components of this labour market plan.

Since the OFC was established in 2006, the Office's methods of operation have evolved through undertaking focused compliance activities, adopting best practices, consulting with regulators, re-adjusting its focus and adapting to an ever-changing social and economic environment. During this continuing journey, the Office will continue to innovate, be responsive to the current environment and be driven by evidence-based and sound policy choices.

The OFC also recognizes that there are multiple routes to promote the adoption of fair registration practices – from focused compliance activities, to the identification and dissemination of best practices, to the provision of consulting and educational services. Over the life of this business plan, the OFC plans to enlarge its “toolbox” but with an unwavering focus on achieving better outcomes for applicants.

Priority Elements of the 2021-24 Business Plan

The government's decision to appoint a full-time Fairness Commissioner will enable the OFC to roll out a robust list of operational and policy-based initiatives over the course of this three-year business plan. While the OFC's main objective is to improve outcomes for registrants, it will also take steps to assume the mantle of a modern regulator and to reduce burdens for all participants in the system.

In addition, the positioning of the OFC in the MLTSD provides the Office with a unique opportunity to work with colleagues in the labour market and immigrant nominee programs to provide more wholistic approaches for the registration and employment of individuals applying to the professions and compulsory trades, particularly those who are internationally trained.

The 2021-22 fiscal year will represent the first full year of the OFC's major change agenda. During this period, the Office will focus on seven inter-related priority initiatives which are described below. The Office will likely continue to work on these items to some extent in the out-years of the business plan, which will be updated over time.

1. The Impacts of COVID-19 on the Continuity of Registration Processes across Professions:

During 2020, the Covid-19 pandemic materially impacted Ontario's professional regulators. In general terms, regulators were able to pivot quickly to address novel and unprecedented challenges. In many cases, however, regulators were required to cancel knowledge-based and/or clinical examinations, in some cases with serious implications for registrants.

In November 2020, the OFC disseminated a survey to all regulators to better understand the impacts of the pandemic. The Office specifically asked about the role that the OFC could play to assist regulators to deal with the new reality. This role could include the dissemination of best practices (particularly on technology-related issues), scheduling webinars and/or establishing communities of interest. The OFC will compile and disseminate the survey results in early 2021 and develop an appropriate action plan.

2. Migration to a Risk-informed Compliance Framework:

In several of its previous annual reports, the OFC has signaled its desire to develop a risk-informed compliance framework. A key objective is to ensure that the Office's finite compliance resources are focused on those regulators who have not advanced as far as others in developing fair registration practices.

This project will involve the articulation of principles to define the OFC's role as a modern regulator, establishing lists of historical performance and forward-looking risk factors, and devising a methodology to establish compliance categories into which individual regulators would be placed. In a companion project, the OFC will also review its 70 current compliance standards with a view towards reducing their

number and placing them in appropriate legal compliance and best-practices categories.

The OFC plans to take the first tranche of this work to a stakeholder advisory committee in early 2021. It is expected that the project will take two years to roll out in sequential stages.

3. Development of a Diversity and Anti-racism Lens for the Registration of Professionals:

The registration of professionals and skilled tradespersons is subject to the same sources of institutional bias common to other broader public sector activities. In that respect, many regulators have recognized the need to squarely identify diversity, inclusion and anti-racism issues that may influence their registration decisions, particularly as they relate to internationally trained applicants.

The OFC believes that it is important to leverage this proactive work and to migrate to developing an inclusion and anti-racism lens for the registration process, as well as other tools that may add value. During 2021, the Office will engage with regulators and other stakeholders on how such initiatives can best be launched and embedded into organizational cultures. This work could initially involve organizing a series of webinars and/or panel discussions.

4. International Credentials Recognition and Interprovincial Harmonization:

Building on our Office's work to enhance the fairness and efficiency of registration processes, the OFC is co-leading a series of stakeholder roundtables to address barriers to labour mobility for both domestic and internationally trained professionals and tradespersons. The sessions are co-chaired by the Fairness Commissioner and the Associate Deputy Minister of Policy for MLTSD.

The sessions are intended to:

- Offer stakeholders from a variety of backgrounds the opportunity to identify barriers and share their experiences on how registration processes could be improved.
- More clearly delineate the barriers to labour mobility that stakeholders encounter as these relate to international credentials

recognition and regulated trades. (MLTSD will also be reviewing occupational health and safety issues as part of this exercise).

- Deliver a report that summarizes feedback in the identified areas and provides recommendations to address them through future government action.

The stakeholder roundtables began in the Spring of 2021 and are expected to continue through the Summer. Recommendations are scheduled for delivery in the early Fall.

5. Accountability Measures for Third Party Service Providers:

Increasingly, regulators in Ontario are devolving important components of their assessment and registration processes to third party service providers. The importance of the work that such third parties perform has been driven home by the Covid-19 pandemic, where a number of service providers were compelled to cancel examinations that regulators had asked them to oversee. These decisions created material impacts for registrants.

Under section 10(2) of FARPACTA, “if a regulated profession relies on a third party to assess qualifications, it shall take reasonable measures to ensure that the third party makes the assessment in a way that is transparent, objective, impartial and fair”.

The OFC has initiated work to review the measures that regulators apply to hold third party service providers accountable to ensure that these approaches are sufficiently robust and incorporate appropriate risk mitigation strategies. The OFC plans to continue work on this project in 2021, which may include a survey, broader stakeholder consultations and the dissemination of best practices.

6. Reducing the Impact of the Canadian Experience Requirement

The registration rules that apply to 12 professions specify that applicants must meet “Canadian experience” requirements before they are permitted to practice in their chosen field. Except for two professions, these requirements are either prescribed by statute or regulation.

Based on the OFC’s experience, this type of a provision can be relied upon excessively, inhibit the development of equivalent assessment measures and may

not be needed to protect public health and safety. It also acts as a significant barrier which can prevent internationally trained professionals from fulfilling their professional ambitions. This type of provision has also been interpreted as discriminatory.

In 2021, the OFC plans to begin consultations with interested parties on ways to limit the impact of these provisions and identify equivalent paths to achieve similar outcomes.

7. Establishing the OFC as a Centre of Excellence for Fair Registration Practices:

Based on consultations with regulators and other stakeholders, the OFC has ascertained that substantial gaps exist in the sharing of information and best practices among the regulatory community. This is not surprising given the highly disparate sectors in which regulators operate.

On this basis, there is an opportunity for the OFC to augment its traditional education and consulting roles by, for example (a) serving a more proactive aggregator and disseminator of best practices, key learnings and trends, (b) designing and delivering a variety of training opportunities and shared learning experiences for participants, (c) establishing partnerships with other organizations and (d) serving as a strategic advisor and/or facilitator for ministries to address issues involving their professions or compulsory trades.

During 2021, the OFC will consult on these ideas and flesh out this concept. The Office also plans to more proactively push out information and schedule a variety of training and awareness events.

Other Issues:

System Coherence

The OFC believes that there are opportunities to improve co-ordination among the various parties involved in the immigration, labour market, post-secondary education, professional registration and employment spheres to help ensure that more applicants – particularly internationally trained candidates – can more seamlessly move through the steps in the process and obtain high quality jobs. The Office will continue to explore approaches that have worked in other jurisdictions and to discuss these within government and with stakeholders.

The Sunsetting of the Ontario College of Trades

The government has determined that the Ontario College of Trade will be disbanded and replaced with other structures. The OFC will continue to provide advice to MLTSD on how fair registration practices can be appropriately embedded in the new regulatory scheme that is developed.

Internal Workplace Priorities

In the aftermath of the Covid-19 pandemic, OFC staff have been working from home since mid-March 2020. Despite the need to pivot to a new working environment, they have continued to be productive and persevere in a virtual setting.

During this time frame, the OFC has continued its work to develop an innovative new Workplace Charter. In addition, the Office has shown leadership in establishing, and sharing within the ministry, new approaches to foster diversity, address anti-racism and promote digital wellness. This important work will continue into 2021.

Office of the Fairness Commissioner Staff Functions

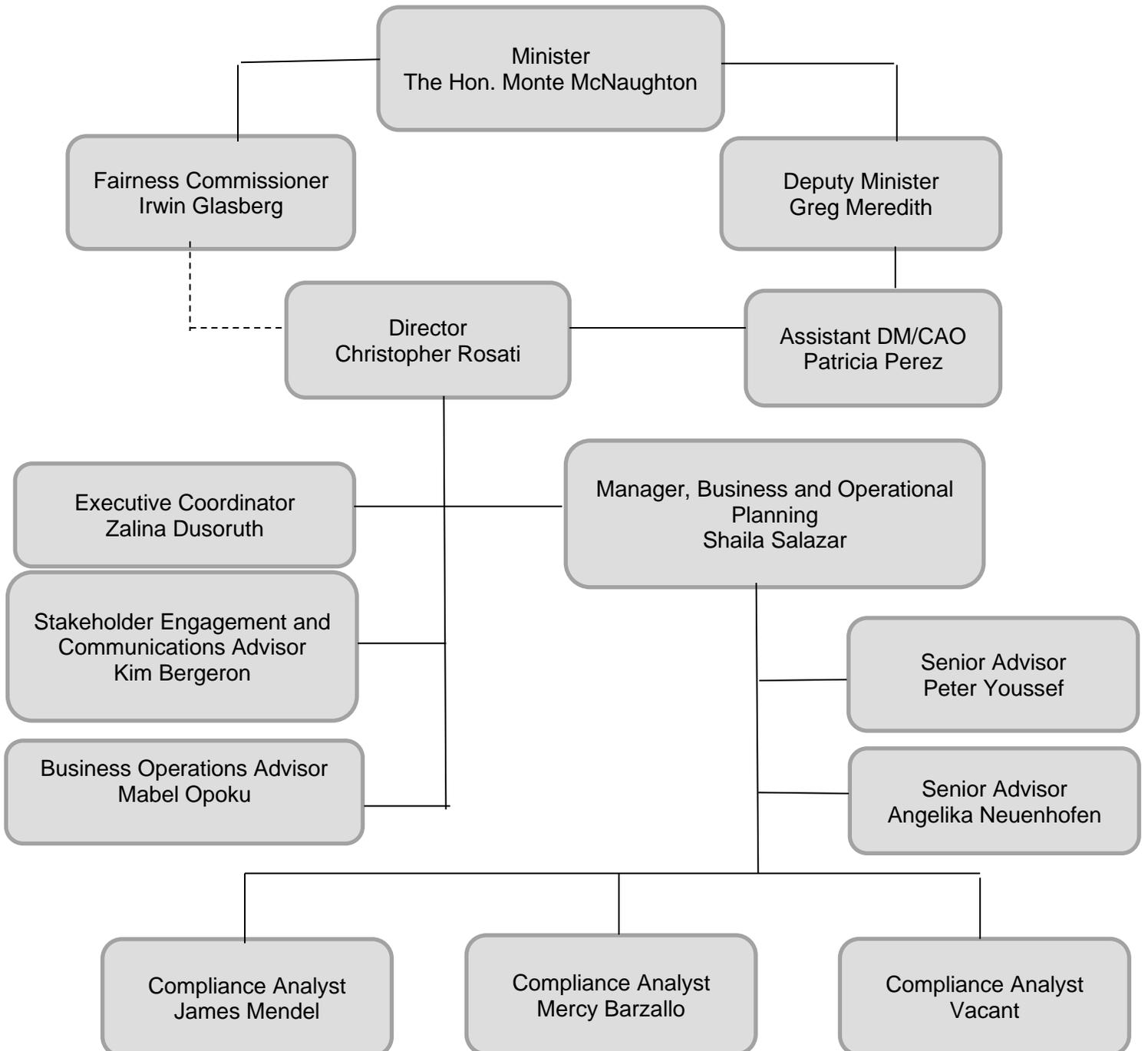
Position	Position Description	Position Number(s)	Classification
Executive Coordinator (Administration)	Coordinates key administrative and support functions for the Commissioner and Director	00263802	UEO009
Business Operation Advisor (Administration and Operations)	Coordinates office operations, budget forecasting, procurement, protection of health and safety, and facilities liaison	00263800	Executive Officer 1
Stakeholder Engagement and	Coordinates all OFC communications and website-based activities	00263798	Information Officer 1

Communications Advisor			
Compliance Analyst X 3	Carries out direct oversight of an assigned roster of regulators	00263804 00263805 00263806	Executive Officer 1
Senior Program Advisor X 2	Provides strategic policy input, development and research for OFC business plan activities	00264558 00264559	6A008
Manager, Business and Operational Planning	Provides manager level leadership, strategic direction, guidance and support to direct reports	00272527	M1104F
Director	Accountable for all office operations and the fulfillment of the Commissioner's vision for the OFC	00259685	Executive 2

OFFICE OF THE FAIRNESS COMMISSIONER

ORGANIZATIONAL STRUCTURE

(As described in Memorandum of Understanding between the Minister and The Fairness Commissioner)



OFC Business Plan Budget – FY 2021 – 2024

Standard Account	2021-22 Preliminary Planning Base	2022-23 Preliminary Planning Base	2023-24 Preliminary Planning Base
Salaries & Wages	796,900	796,900	796,900
Benefits	119,500	119,500	119,500
Total SWB	916,400	916,400	916,400
ODOE: Transportation & Communication	0	0	0
Services (Including Lease)	887,100	887,100	887,100
Supplies & Equipment	0	0	0
Total ODOE	887,100	887,100	887,100
Grand Total	1,803,500	1,803,500	1,803,500

Performance Measurement Framework

The OFC believes that its overarching goal is to improve outcomes for registrants. At the end of the day, this means that all qualified applicants – including internationally trained registrants – can obtain employment that corresponds to their training and competencies.

As this is a system-wide performance metric and would be challenging for the OFC to measure on its own, the Office does not believe that it can be used to evaluate its effectiveness. The OFC considers it important, however, to work with other organizations to ascertain whether a measure of this nature could be developed.

The OFC also has an oversight role to work with regulators to incorporate the principles of transparency, objectivity, impartiality and fairness, as outlined in section 6 of FARPACTA, into their registration processes. In the past, the OFC has reported that this goal will be achieved where “100 per cent of regulated professions achieve 100 per cent compliance with the fair access legislation”.

Given that the constituents of compliance are largely made up of output measures and that the OFC will be migrating to a new risk-informed compliance framework, the Office believes that the ongoing utility of this measure should be re-evaluated and that, during the course of 2021, the OFC should identify one or more refreshed outcome measures.

In the meantime, the OFC has articulated four new interim performance indicators to constitute its new performance measurement framework. These metrics are designed to test whether the OFC is taking concrete and proactive steps to encourage and assist regulators to improve their fair registration practices. These performance indicators are set out below:

- The annual reduction in the number of professions that the OFC places in its medium to high risk compliance categories.
- The number of best (commendable) practices that the OFC collects and disseminates to the professions on an annual basis.
- The number of events, webinars and publications that the OFC completes on an annual basis.
- The percentage of regulators and other stakeholders that identify the OFC as an effective or highly effective regulator and service delivery agency.

The particulars of this performance management framework are contained in the table that follows.

Performance Measurement Framework

Key Performance Indicators	Description	Related Activity	Performance Target*
Annual reduction in the number of professions that the OFC places in its medium to high risk compliance categories	<ul style="list-style-type: none"> • In 2021, the OFC plans to introduce a risk-informed compliance framework that will feature an analysis of key indicators to inform the placement of regulators into low/medium or high-risk compliance categories. • This KPI will measure the OFC's success in monitoring/working with medium and high-risk regulators to improve their registration practices and to move them out of these categories. 	Oversight	20% reduction annually
Number of best (commendable) practices that the OFC collects and disseminates to the professions on an annual basis.	<ul style="list-style-type: none"> • As part of the OFC's goal to become a Centre of Excellence, the Office will partner with regulators and other stakeholders to develop and/or distribute best practices to be shared across the regulatory community. 	Centre of Excellence	50 new best practices annually
Number of events, webinars and publications that the OFC completes on an annual basis	<ul style="list-style-type: none"> • The OFC, in consultation with regulators, ministry partners and other stakeholders, will design, deliver and/or publish needs-based knowledge transfer or learning opportunities designed to address gaps in, and otherwise enhance, fair registration practices. 	Centre of Excellence	18 items in 2021-22
Percentage of regulators and other stakeholders who identify the OFC as an effective or highly effective regulator and service delivery agency.	<ul style="list-style-type: none"> • The OFC will survey regulators and other stakeholders to track the Office's level of performance, degree of effectiveness and agility to produce better outcomes for registrants. 	Centre of Excellence	80% Baseline

*Each of these performance measures will constitute a three-year target and will be monitored and reported on annually.

Office of the Fairness Commissioner,

December 23, 2020



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